

Issuance Date: July 15, 2003  
Effective Date: August 1, 2003  
Expiration Date: July 15, 2008

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
WASTE DISCHARGE PERMIT No. WA-002262-4**

State of Washington  
DEPARTMENT OF ECOLOGY  
Northwest Regional Office  
3190 – 160<sup>th</sup> Avenue SE  
Bellevue, Washington 98008-5452

In compliance with the provisions of  
The State of Washington Water Pollution Control Law  
Chapter 90.48 Revised Code of Washington  
and  
The Federal Water Pollution Control Act  
(The Clean Water Act)  
Title 33 United States Code, Section 1251 et seq.

**LAKEHAVEN UTILITY DISTRICT – LAKOTA WWTP**  
31627 - 1st Avenue South  
Federal Way, Washington 98023

<u>Plant Location:</u> Lakota Wastewater Treatment Plant 3203 SW Dash Point Road Federal Way, Washington 98023	<u>Receiving Water:</u> Dumas Bay - Puget Sound
<u>Water Body I.D. No.:</u> WA-PS-0270 - South Central Puget Sound	<u>Discharge Location:</u> Latitude: 47° 20' 09.267" N Longitude: 122° 22' 54.286" W
<u>Plant Type:</u> Activated Sludge	

is authorized to discharge in accordance with the special and general conditions that follow.

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Water Quality Section Manager  
Northwest Regional Office  
Washington State Department of Ecology

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## SUMMARY OF PERMIT REPORT SUBMITTALS

Refer to the Special and General Conditions of this permit for additional submittal requirements.

Permit Section	Submittal	Frequency	First Submittal Date
S2.B	Priority Pollutant: Metals	4/year, in conjunction with Acute Toxicity testing	December 31, 2003
S2.B	Priority Pollutant Analysis: All	1/year	August 15, 2004
S2.B	Additional Effluent Characterization	3/permit cycle	With next permit application
S3.A	Discharge Monitoring Report	Monthly	September 15, 2003
S3.A	Monthly Summary Report	Monthly	September 15, 2003
S3.E	Noncompliance Notification	As necessary	
S8.B	Acute Toxicity Compliance Monitoring	4/year, during the months of January, April, July, & October	December 31, 2003
S8.D	Acute Toxicity Compliance Monitoring Reports	4/year	Sixty (60) days after each sampling event
S8.C	Acute Toxicity TI/TRE Plan	As necessary	
S9.A	Chronic Toxicity Effluent Characterization	Two (2) times during calendar year 2007, during the months of January & July	April 1, 2007
S9.B	Chronic Toxicity Characterization Summary Report	1/permit cycle	With next permit application
S10.A	Sediment Baseline Sampling and Analysis Plan	1/permit cycle	December 31, 2003
S10.B	Sediment Chemistry Analyses	1/permit cycle	December 31, 2005
S10.B	Sediment Data Report	1/permit cycle	June 30, 2006
S11.	Outfall Evaluation and Report	1/permit cycle	With next permit application
G1.	Notice of Change in Authorization	As necessary	
G7.	Application for Permit Renewal	1/permit cycle	January 15, 2008
G21.	Notice of Planned Changes	As necessary	
G22.	Reporting Anticipated Noncompliance	As necessary	

## SPECIAL CONDITIONS

### S1. DISCHARGE LIMITATIONS

#### A. Effluent Limitations

All discharges and activities authorized by this permit shall be consistent with the terms and conditions of this permit. The discharge of any of the following pollutants more frequently than, or at a level in excess of, that identified and authorized by this permit shall constitute a violation of the terms and conditions of this permit.

Beginning on the effective date of this permit and lasting through the expiration date, the Permittee is authorized to discharge municipal wastewater at the permitted location subject to complying with the following limitations:

EFFLUENT LIMITATIONS <sup>a</sup> : OUTFALL # 1		
Parameter	Average Monthly	Average Weekly
Carbonaceous Biochemical Oxygen Demand <sup>b</sup> (5-day)	25 mg/L, 2085 lb/day	40 mg/L, 3336 lb/day
Total Suspended Solids <sup>c</sup>	30 mg/L, 2378 lb/day	45 mg/L, 3566 lb/day
Fecal Coliform Bacteria	200 /100 mL	400 /100 mL
pH	Daily minimum is equal to or greater than 6 and the daily maximum is less than or equal to 9.	
Acute Toxicity	No acute toxicity detected in a WET test concentration representing the acute critical effluent concentration (ACEC). The ACEC is 4.17%.	
Parameter	Average Monthly	Daily Average
Total Residual Chlorine <sup>d</sup>	119 µg/L, 9.9 lbs/day	312 µg/L

<sup>a</sup> The average monthly and weekly effluent limitations are based on the arithmetic mean of the samples taken with the exception of fecal coliform, which is based on the geometric mean.

<sup>b</sup> The average monthly effluent concentration for CBOD<sub>5</sub> shall not exceed 25 mg/L or 15 percent of the monthly average influent concentrations, whichever is more stringent.

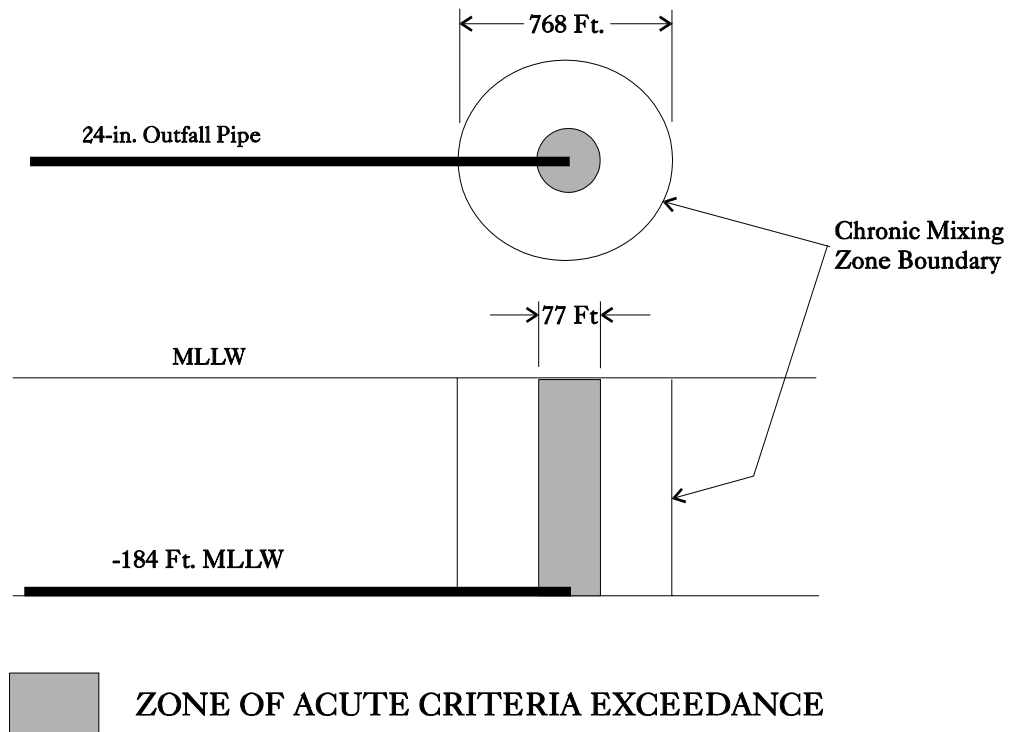
<sup>c</sup> The average monthly effluent concentration for Total Suspended Solids shall not exceed 30 mg/L or 15 percent of the monthly average influent concentrations, whichever is more stringent.

<sup>d</sup> Although this facility usually utilizes ultraviolet radiation to disinfect the effluent, chlorination equipment is available for emergency backup. The above effluent limitations for chlorine are in effect only at such times as chlorine is added to the wastewater for disinfection.

B. Mixing Zone Descriptions

The maximum boundaries of the mixing zones are defined as follows:

1. The horizontal dimensions and boundaries of the mixing zone are as depicted in the following diagram:



2. The mixing zone extends vertically from the outfall diffuser to an upper boundary at the water surface. The most restrictive upper boundary occurs at Mean Lower Low Water (MLLW).
3. The allowable zone of acute criteria exceedance dimensions and boundaries are depicted in the above diagram by the shaded area. The zone of acute criteria exceedance shall not extend horizontally more than 38.5 feet from the outfall pipe. The zone of acute criteria exceedance extends vertically to an upper boundary at MLLW.
4. At the boundary of the zone of acute criteria exceedance, the Acute Critical Effluent Concentration (ACEC) equals 4.17% effluent, based on dilution models which show a 24:1 dilution at that point. At the boundary of the mixing zone, the Chronic Critical Effluent Concentration (CCEC) equals 0.38% effluent, based on a modeled 263:1 dilution at that point.

## S2. MONITORING REQUIREMENTS

### A. Monitoring Schedule

The Permittee shall monitor the wastewater according to the following schedule:

Category	Parameter	Units	Sample Point	Minimum Sampling Frequency	Sample Type
Wastewater Influent	Flow	MGD	Influent	Continuous	Recording
“	BOD <sub>5</sub>	mg/l	Influent	1/week	24-hr Composite
“	CBOD <sub>5</sub>	mg/l	Influent	3/week	24-hr Composite
“	TSS	mg/l	Influent	3/week	24-hr Composite
Wastewater Effluent	Flow	MGD	Final Effluent	Continuous	Recording
“	CBOD <sub>5</sub>	mg/l	Final Effluent	3/week	24-hr Composite
“	TSS	mg/l	Final Effluent	3/week	24-hr Composite
“	Fecal Coliform	#/100 mL	Final Effluent	4/week	Grab
“	pH	Std Units	Final Effluent	Daily	Grab
“	Total Residual Chlorine <sup>4</sup>	mg/l	Final Effluent	Daily <sup>4</sup>	Grab
Acute Toxicity Testing (as req'd in S8)			Final Effluent	4/year, during the months of January, April, July, & October	24-hr Composite
Chronic Toxicity Testing (as req'd in S9)			Final Effluent	Once each during January and July in 2007	24-hr Composite
Priority Pollutant Metals <sup>1</sup>			Final Effluent	4/year, with Acute Toxicity tests	24-hr Composite
Priority Pollutant Analysis <sup>2</sup>			Influent & Final Effluent	1/year	24-hour Composite <sup>3</sup>
Sediment			As Required in Condition S10		

<sup>1</sup> Priority pollutant metals include Copper, Nickel, Lead, Zinc, Chromium, Cadmium, Mercury and Arsenic. Total Recoverable Chromium may be used in place of Chromium III and VI.

<sup>2</sup> The complete list of priority pollutants is as shown in 40 CFR Part 423, titled “Appendix A to Part 403 - 126 Priority Pollutants.” Neither dioxin nor asbestos analyses are required for this Permittee. Complete list is shown in Appendix N of fact sheet.

<sup>3</sup> Purgeable organic compounds are to be collected using a grab sample technique.

<sup>4</sup> The Permittee is required to monitor for Total Residual Chlorine only at such times as chlorine is applied to the effluent for disinfection.

B. Additional Effluent Characterization

New federal permit application procedures require the following additional effluent characterization data for all plants greater than 0.1 MGD design flow. These data must be submitted no later than January 15, 2008, with the next permit application.

Parameter	Sample Point	Minimum Sample Frequency*	Sample Type
Dissolved Oxygen	Final Effluent	3/Permit Cycle	Grab
Ammonia (as N)	Final Effluent	3/Permit Cycle	24-Hour Composite
Total Kjeldahl Nitrogen	Final Effluent	3/Permit Cycle	24-Hour Composite
Nitrate + Nitrite Nitrogen	Final Effluent	3/Permit Cycle	24-Hour Composite
Oil & Grease	Final Effluent	3/Permit Cycle	Grab
Hardness	Final Effluent	3/Permit Cycle	24-Hour Composite
Total Phosphorus	Final Effluent	3/Permit Cycle	24-Hour Composite
Total Dissolved Solids	Final Effluent	3/Permit Cycle	24-Hour Composite

\*Samples must be collected no less than 4 months apart.

C. Sampling and Analytical Procedures

All metals are to be analyzed as total recoverable metals, Section 4.1.4, Publication EPA-600/4-79-020, *Methods for Chemical Analysis of Water and Wastes*, 1979.

Samples and measurements taken to meet the requirements of this permit shall be representative of the volume and nature of the monitored parameters, including representative sampling of any unusual discharge or discharge condition, including bypasses, upsets, and maintenance-related conditions affecting effluent quality.

Sampling and analytical methods used to meet the monitoring requirements specified in this permit shall conform to the latest revision of the *Guidelines Establishing Test Procedures for the Analysis of Pollutants* contained in 40 CFR Part 136 or to the latest revision of *Standard Methods for the Examination of Water and Wastewater* (APHA), unless otherwise specified in this permit or approved in writing by the Department of Ecology (Department).

D. Flow Measurement

Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be selected and used to ensure the accuracy and reliability of measurements of the quantity of monitored flows. The devices shall be installed, calibrated, and maintained to ensure that the accuracy of the



measurements is consistent with the accepted industry standard for that type of device. Frequency of calibration shall be in conformance with manufacturer's recommendations. Calibration records shall be maintained for at least three (3) years.

E. Laboratory Accreditation

All monitoring data required by the Department shall be prepared by a laboratory registered or accredited under the provisions of, *Accreditation of Environmental Laboratories*, chapter 173-50 WAC. Flow, temperature, settleable solids, conductivity, pH, and internal process control parameters are exempt from this requirement. Conductivity and pH shall be accredited if the laboratory must otherwise be registered or accredited. The Department exempts crops, soils, and hazardous waste data from this requirement pending accreditation of laboratories for analysis of these media.

**S3. REPORTING AND RECORDKEEPING REQUIREMENTS**

The Permittee shall monitor and report in accordance with the following conditions. The falsification of information submitted to the Department shall constitute a violation of the terms and conditions of this permit.

A. Reporting

The first monitoring period begins on the effective date of the permit. Monitoring results shall be submitted monthly. Monitoring data obtained during each monitoring period shall be summarized, reported, and submitted on a Discharge Monitoring Report (DMR) form provided, or otherwise approved, by the Department. DMR forms shall be received by the Department no later than the 15<sup>th</sup> day of the month following the completed monitoring period, unless otherwise specified in this permit. Priority pollutant analysis data shall be submitted no later than forty-five (45) days following the monitoring period. Unless otherwise specified, all toxicity test data shall be submitted within sixty (60) days after the sample date. The report(s) shall be sent to:

Department of Ecology  
Northwest Regional Office  
3190 160<sup>th</sup> Avenue SE  
Bellevue, WA 98008-5452

All laboratory reports providing data for organic and metal parameters shall include the following information: sampling date, sample location, date of analysis, parameter name, CAS number, analytical method/number, method detection limit (MDL), laboratory practical quantitation limit (PQL), reporting units, and concentration detected.

Discharge Monitoring Report forms must be submitted monthly whether or not the facility was discharging. If there was no discharge during a given monitoring

period, submit the form as required with the words "no discharge" entered in place of the monitoring results.

In addition to the monthly report, a monthly summary report form (EPA No. 3320-1) shall be received no later than the 15<sup>th</sup> day of the following month. This report is limited to the parameters specified in Condition S1.

B. Records Retention

The Permittee shall retain records of all monitoring information for a minimum of three (3) years. Such information shall include all calibration and maintenance records and all original recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the Permittee or when requested by the Department.

C. Recording of Results

For each measurement or sample taken, the Permittee shall record the following information: (1) the date, exact place, method, and time of sampling or measurement; (2) the individual who performed the sampling or measurement; (3) the dates the analyses were performed; (4) the individual who performed the analyses; (5) the analytical techniques or methods used; and (6) the results of all analyses.

D. Additional Monitoring by the Permittee

If the Permittee monitors any pollutant more frequently than required by this permit using test procedures specified by Condition S2 of this permit, then the results of such monitoring shall be included in the calculation and reporting of the data submitted in the Permittee's DMR.

E. Noncompliance Notification

In the event the Permittee is unable to comply with any of the terms and conditions of this permit due to any cause, the Permittee shall:

1. Immediately take action to stop, contain, and cleanup unauthorized discharges or otherwise stop the noncompliance, correct the problem and, if applicable, repeat sampling and analysis of any noncompliance immediately and submit the results to the Department within thirty (30) days after becoming aware of the violation.
2. Immediately notify the Department of the failure to comply.

3. Submit a detailed, written report to the Department within thirty (30) days (five [5] days for upsets and bypasses), unless requested earlier by the Department. The report shall contain a description of the noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

Compliance with these requirements does not relieve the Permittee from responsibility to maintain continuous compliance with the terms and conditions of this permit or the resulting liability for failure to comply.

F. Reporting - Shellfish Protection

Unauthorized discharges, such as collection system overflows, plant bypasses, or failure of the disinfection system, shall be reported immediately to the Department of Ecology and the Department of Health, Shellfish Program. The Department of Ecology's Northwest Regional Office 24-hour number is (425) 649-7000, and the Department of Health's Shellfish 24-hour number is (360) 786-4183.

**S4. FACILITY LOADING**

A. Design Criteria

Flows or waste loadings of the following design criteria for the permitted treatment facility shall not be exceeded:

Average flow for the maximum month:	10 MGD
BOD <sub>5</sub> loading for maximum month:	17,515 lb/day
TSS loading for maximum month:	15,850 lb/day

B. Plans for Maintaining Adequate Capacity

The Permittee shall submit to the Department a plan and a schedule for continuing to maintain capacity when:

1. The actual flow or waste load reaches 85 percent of any one of the design criteria in S4.A for three (3) consecutive months; or
2. When the projected increase would reach design capacity within five (5) years, whichever occurs first.

If such a plan is required, it shall contain a plan and schedule for continuing to maintain capacity. The capacity as outlined in this plan must be sufficient to achieve the effluent limitations and other conditions of this permit. This plan shall

address any of the following actions or any others necessary to meet the objective of maintaining capacity.

1. Analysis of the present design including the introduction of any process modifications that would establish the ability of the existing facility to achieve the effluent limits and other requirements of this permit at specific levels in excess of the existing design criteria specified in paragraph A above.
2. Reduction or elimination of excessive infiltration and inflow of uncontaminated ground and surface water into the sewer system.
3. Limitation on future sewer extensions or connections or additional waste loads.
4. Modification or expansion of facilities necessary to accommodate increased flow or waste load.
5. Reduction of industrial or commercial flows or waste loads to allow for increasing sanitary flow or waste load.

Engineering documents associated with the plan must meet the requirements of WAC 173-240-060, "Engineering Report," and be approved by the Department prior to any construction. The plan shall specify any contracts, ordinances, methods for financing, or other arrangements necessary to achieve this objective.

C. Duty to Mitigate

The Permittee is required to take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.

D. Notification of New or Altered Sources

The Permittee shall submit written notice to the Department whenever any new discharge or a substantial change in volume or character of an existing discharge into the POTW is proposed which: (1) would interfere with the operation of, or exceed the design capacity of, any portion of the POTW; (2) is not part of an approved general sewer plan or approved plans and specifications; or (3) would be subject to pretreatment standards under 40 CFR Part 403 and Section 307(b) of the Clean Water Act. This notice shall include an evaluation of the POTW's ability to adequately transport and treat the added flow and/or waste load, the quality and volume of effluent to be discharged to the POTW, and the anticipated impact on the Permittee's effluent [40 CFR 122.42(b)].

## **S5. OPERATIONS AND MAINTENANCE**

The Permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed to achieve compliance with the terms and conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems, which are installed by a Permittee only when the operation is necessary to achieve compliance with the conditions of this permit.

### **A. Certified Operator**

An operator certified for at least a Class IV plant by the State of Washington shall be in responsible charge of the day-to-day operation of the wastewater treatment plant. An operator certified for at least a Class III plant shall be in charge during all regularly scheduled shifts.

### **B. O & M Program**

The Permittee shall institute an adequate Operation and Maintenance Program for their entire sewage system. Maintenance records shall be maintained on all major electrical and mechanical components of the treatment plant, as well as the sewage system and pumping stations. Such records shall clearly specify the frequency and type of maintenance recommended by the manufacturer and shall show the frequency and type of maintenance performed. These maintenance records shall be available for inspection at all times.

### **C. Short-term Reduction**

If a Permittee contemplates a reduction in the level of treatment that would cause a violation of permit discharge limitations on a short-term basis for any reason, and such reduction cannot be avoided, the Permittee shall give written notification to the Department, if possible, thirty (30) days prior to such activities, detailing the reasons for, length of time of, and the potential effects of the reduced level of treatment. This notification does not relieve the Permittee of their obligations under this permit.

### **D. Electrical Power Failure**

The Permittee is responsible for maintaining adequate safeguards to prevent the discharge of untreated wastes or wastes not treated in accordance with the requirements of this permit during electrical power failure at the treatment plant and/or sewage lift stations either by means of alternate power sources, standby generator, or retention of inadequately treated wastes.

The Permittee shall maintain Reliability Class II (EPA 430-99-74-001) at the wastewater treatment plant, which requires a backup power source sufficient to operate all vital components and critical lighting and ventilation during peak

wastewater flow conditions, except vital components used to support the secondary processes (i.e., mechanical aerators or aeration basin air compressors) need not be operable to full levels of treatment, but shall be sufficient to maintain the biota.

E. Prevent Connection of Inflow

The Permittee shall strictly enforce their sewer ordinances and not allow the connection of inflow (roof drains, foundation drains, etc.) to the sanitary sewer system.

F. Bypass Procedures

Bypass, which is the intentional diversion of waste streams from any portion of a treatment facility, is prohibited, and the Department may take enforcement action against a Permittee for bypass unless one of the following circumstances (1, 2, or 3) is applicable.

1. Bypass for essential maintenance without the potential to cause violation of permit limits or conditions

Bypass is authorized if it is for essential maintenance and does not have the potential to cause violations of limitations or other conditions of this permit, or adversely impact public health as determined by the Department prior to the bypass. The Permittee shall submit prior notice, if possible, at least ten (10) days before the date of the bypass.

2. Bypass which is unavoidable, unanticipated and results in noncompliance of this permit.

This bypass is permitted only if:

- a. Bypass is unavoidable to prevent loss of life, personal injury, or severe property damage. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which would cause them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass.
- b. There are no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, stopping production, maintenance during normal periods of equipment downtime (but not if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance), or transport of untreated wastes to another treatment facility.

- c. The Department is properly notified of the bypass as required in Condition S3E of this permit.
3. Bypass which is anticipated and has the potential to result in noncompliance of this permit

The Permittee shall notify the Department at least thirty (30) days before the planned date of bypass. The notice shall contain: (1) a description of the bypass and its cause; (2) an analysis of all known alternatives which would eliminate, reduce, or mitigate the need for bypassing; (3) a cost-effectiveness analysis of alternatives including comparative resource damage assessment; (4) the minimum and maximum duration of bypass under each alternative; (5) a recommendation as to the preferred alternative for conducting the bypass; (6) the projected date of bypass initiation; (7) a statement of compliance with SEPA; (8) a request for modification of water quality standards as provided for in WAC 173-201A-110, if an exceedance of any water quality standard is anticipated; and (9) steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass.

For probable construction bypasses, the need to bypass is to be identified as early in the planning process as possible. The analysis required above shall be considered during preparation of the engineering report or facilities plan and plans and specifications and shall be included to the extent practical. In cases where the probable need to bypass is determined early, continued analysis is necessary up to and including the construction period in an effort to minimize or eliminate the bypass.

The Department will consider the following prior to issuing an administrative order for this type of bypass:

- a. If the bypass is necessary to perform construction or maintenance-related activities essential to meet the requirements of this permit.
- b. If there are feasible alternatives to bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, stopping production, maintenance during normal periods of equipment down time, or transport of untreated wastes to another treatment facility.
- c. If the bypass is planned and scheduled to minimize adverse effects on the public and the environment.

After consideration of the above and the adverse effects of the proposed bypass and any other relevant factors, the Department will approve or deny the request. The public shall be notified and given an opportunity to comment on bypass incidents of significant duration, to the extent feasible.

Approval of a request to bypass will be by administrative order issued by the Department under RCW 90.48.120.

G. Operations and Maintenance Manual

The approved *Operations and Maintenance Manual* shall be kept available at the treatment plant and all operators shall follow the instructions and procedures of this manual. The operation and maintenance manual shall be updated as needed. Updated portions of the operations and maintenance manual shall be submitted to the Department for review and approval.

**S6. PRETREATMENT**

A. General Requirements

The Permittee shall work with the Department to ensure that all commercial and industrial users of the publicly owned treatment works (POTW) are in compliance with the pretreatment regulations promulgated in 40 CFR Part 403 and any additional regulations that may be promulgated under Section 307(b) (pretreatment) and 308 (reporting) of the Federal Clean Water Act.

B. Wastewater Discharge Permit Required

The Permittee shall not allow significant industrial users (SIUs) to discharge wastewater to the Permittee's sewerage system until such user has received a wastewater discharge permit from the Department in accordance with chapter 90.48 RCW and chapter 173-216 WAC, as amended.

C. Identification and Reporting of Existing, New, and Proposed Industrial Users

1. The Permittee shall take continuous, routine measures to identify all existing, new, and proposed SIUs and potential significant industrial users (PSIUs) discharging or proposing to discharge to the Permittee's sewerage system (see Appendix B of fact sheet for definitions).
2. Within thirty (30) days of becoming aware of an unpermitted existing, new, or proposed industrial user who may be an SIU, the Permittee shall notify such user by registered mail that, if classified as an SIU, they shall be required to apply to the Department and obtain a state waste discharge permit. A copy of this notification letter shall also be sent to the Department within this same thirty (30)-day period.
3. The Permittee shall also notify all PSIUs, as they are identified, that if their classification should change to an SIU, they shall be required to apply to the Department for a state waste discharge permit within thirty (30) days of such change.



D. Duty to Enforce Discharge Prohibitions

1. In accordance with 40 CFR 403.5(a), the Permittee shall not authorize or knowingly allow the discharge of any pollutants into its POTW which cause pass through or interference, or which otherwise violates general or specific discharge prohibitions contained in 40 CFR Part 403.5 or WAC-173-216-060.
2. The Permittee shall not authorize or knowingly allow the introduction of any of the following into their treatment works:
  - a. Pollutants which create a fire or explosion hazard in the POTW (including, but not limited to waste streams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using the test methods specified in 40 CFR 261.21).
  - b. Pollutants which will cause corrosive structural damage to the POTW, but in no case discharges with pH lower than 5.0, or greater than 11.0 standard units, unless the works are specifically designed to accommodate such discharges.
  - c. Solid or viscous pollutants in amounts that could cause obstruction to the flow in sewers or otherwise interfere with the operation of the POTW.
  - d. Any pollutant, including oxygen-demanding pollutants, (BOD, etc.) released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the POTW.
  - e. Petroleum oil, nonbiodegradable cutting oil, or products of mineral origin in amounts that will cause interference or pass through.
  - f. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity which may cause acute worker health and safety problems.
  - g. Heat in amounts that will inhibit biological activity in the POTW resulting in interference but in no case heat in such quantities such that the temperature at the POTW headworks exceeds 40° C (104° F) unless the Department, upon request of the Permittee, approves, in writing, alternate temperature limits.
  - h. Any trucked or hauled pollutants, except at discharge points designated by the Permittee.
  - i. Wastewaters prohibited to be discharged to the POTW by the Dangerous Waste Regulations (chapter 173-303 WAC), unless

authorized under the Domestic Sewage Exclusion (WAC 173-303-071).

3. The following are prohibited from discharge to the POTW unless approved in writing by the Department under extraordinary circumstances (such as a lack of direct discharge alternatives due to combined sewer service or the need to augment sewage flows due to septic conditions):
  - a. Noncontact cooling water in significant volumes.
  - b. Stormwater, and other direct inflow sources.
  - c. Wastewaters significantly affecting system hydraulic loading, which do not require treatment, or would not be afforded a significant degree of treatment by the system.
4. The Permittee shall notify the Department if any industrial user violates the prohibitions listed in this section.

E. Notification of Industrial User Violations

The Permittee shall notify the Department if any nondomestic user violates the prohibitions listed in S6.C and S6.D above.

**S7. RESIDUAL SOLIDS**

Residual solids include screenings, grit, scum, primary sludge, waste activated sludge, and other solid waste. The Permittee shall store and handle all residual solids in such a manner so as to prevent their entry into state ground or surface waters. The Permittee shall not discharge leachate from residual solids to state surface or ground waters.

**S8. ACUTE TOXICITY**

A. Effluent Limit for Acute Toxicity

**The effluent limit for acute toxicity is no acute toxicity detected in a test concentration representing the acute critical effluent concentration (ACEC).**

The ACEC means the maximum concentration of effluent during critical conditions at the boundary of the zone of acute criteria exceedance assigned pursuant to WAC 173-201A-100. The zone of acute criteria exceedance is authorized in Section S.1.B of this permit. The ACEC equals 4.17% effluent.

In the event of failure to pass the test described in Subsection B of this section for compliance with the effluent limit for acute toxicity, the Permittee is considered to be in compliance with all permit requirements for acute whole effluent toxicity as long as the requirements in Subsection C are being met to the satisfaction of the Department.

B. Monitoring for Compliance With an Effluent Limit for Acute Toxicity

The Permittee shall conduct monitoring to determine compliance with the effluent limit for acute toxicity. The acute toxicity tests shall be performed using at a minimum 100% effluent, the ACEC, and a control. Acute toxicity testing shall follow protocols, monitoring requirements, and quality assurance/quality control procedures specified in this section. Testing shall begin within ninety (90) days of the permit effective date. A written report shall be submitted to the Department within sixty (60) days after the sample date. The percent survival in 100% effluent shall be reported along with all compliance monitoring results.

Compliance monitoring shall be conducted quarterly during the months of January, April, July, and October using each of the species and protocols listed below on a rotating basis:

1. Fathead minnow, *Pimephales promelas* (96-hour static-renewal test, method: EPA/600/4-90/027F)
2. Daphnid, *Ceriodaphnia dubia*, *Daphnia pulex*, or *Daphnia magna* (48-hour static test, method: EPA/600/4-90/027F).

The Permittee is in violation of the effluent limit for acute toxicity in Subsection A and shall immediately implement Subsection C if any acute toxicity test conducted for compliance monitoring determines a statistically significant difference in survival between the control and the ACEC using hypothesis testing at the 0.05 level of significance (Appendix H, EPA/600/4-89/001). If the difference in survival between the control and the ACEC is less than 10%, the hypothesis test shall be conducted at the 0.01 level of significance.

C. Response to Noncompliance With an Effluent Limit for Acute Toxicity

If a toxicity test conducted for compliance monitoring under Subsection B determines a statistically significant difference in response between the ACEC and the control, the Permittee shall begin additional compliance monitoring within one week from the time of receiving the test results. This additional monitoring shall be conducted weekly for four (4) consecutive weeks using the same test and species as the failed compliance test. Testing shall be conducted using a series of at least five (5) effluent concentrations and a control in order to be able to determine appropriate point estimates. One of these effluent concentrations shall equal the ACEC and be compared statistically to the nontoxic control in order to determine compliance with the effluent limit for acute toxicity as described in Subsection B. The discharger shall return to the original monitoring frequency in Subsection B after completion of the additional compliance monitoring.

If the Permittee believes that a test indicating noncompliance will be identified by the Department as an anomalous test result, the Permittee may notify the Department that the compliance test result might be anomalous and that the

Permittee intends to take only one additional sample for toxicity testing and wait for notification from the Department before completing the additional monitoring required in this subsection. The notification to the Department shall accompany the report of the compliance test result and identify the reason for considering the compliance test result to be anomalous. The Permittee shall complete all of the additional monitoring required in this subsection as soon as possible after notification by the Department that the compliance test result was not anomalous. If the one additional sample fails to comply with the effluent limit for acute toxicity, then the Permittee shall proceed without delay to complete all of the additional monitoring required in this subsection. The one additional test result shall replace the compliance test result upon determination by the Department that the compliance test result was anomalous.

If all of the additional compliance monitoring conducted in accordance with this subsection complies with the permit limit, the Permittee shall search all pertinent and recent facility records (operating records, monitoring results, inspection records, spill reports, weather records, production records, raw material purchases, pretreatment records, etc.) and submit a report to the Department on possible causes and preventive measures for the transient toxicity event which triggered the additional compliance monitoring.

If toxicity occurs in violation of the acute toxicity limit during the additional compliance monitoring, the Permittee shall submit a Toxicity Identification/Reduction Evaluation (TI/RE) plan to the Department within sixty (60) days after the sample date. The TI/RE plan shall be based on WAC 173-205-100(2) and shall be implemented in accordance with WAC 173-205-100(3).

D. Sampling and Reporting Requirements

1. All reports for effluent characterization or compliance monitoring shall be submitted in accordance with the most recent version of Department of Ecology Publication # WQ-R-95-80, *Laboratory Guidance and Whole Effluent Toxicity Test Review Criteria*, in regards to format and content. Reports shall contain bench sheets and reference toxicant results for test methods. If the lab provides the toxicity test data on floppy disk for electronic entry into the Department's database, then the Permittee shall send the disk to the Department along with the test report, bench sheets, and reference toxicant results.
2. Testing shall be conducted on 24-hour composite effluent samples. Samples taken for toxicity testing shall be cooled to 4 degrees Celsius while being collected and shall be sent to the lab immediately upon completion. The lab shall begin the toxicity testing as soon as possible but no later than 36 hours after sampling was ended.

3. All samples and test solutions for toxicity testing shall have water quality measurements as specified in Department of Ecology Publication # WQ-R-95-80, *Laboratory Guidance and Whole Effluent Toxicity Test Review Criteria*, or most recent version thereof.
4. All toxicity tests shall meet quality assurance criteria and test conditions in the most recent versions of the EPA manual listed in Subsection A and the Department of Ecology Publication # WQ-R-95-80, *Laboratory Guidance and Whole Effluent Toxicity Test Review Criteria*. If test results are determined to be invalid or anomalous by the Department, testing shall be repeated with freshly collected effluent.
5. Control water and dilution water shall be laboratory water meeting the requirements of the EPA manual listed in Subsection A or pristine natural water of sufficient quality for good control performance.
6. The whole effluent toxicity tests shall be run on an unmodified sample of final effluent. Precautions should be taken to ensure that the sample contains no residual chlorine when chlorine is being used for filament control.
7. The Permittee may choose to conduct a full dilution series test during compliance monitoring in order to determine dose response. In this case, the series must have a minimum of five (5) effluent concentrations and a control. The series of concentrations must include the ACEC.
8. All whole effluent toxicity tests, effluent screening tests, and rapid screening tests that involve hypothesis testing and do not comply with the acute statistical power standard of 29% as defined in WAC 173-205-020 must be repeated on a fresh sample with an increased number of replicates to increase the power.
9. The Permittee may choose to perform the WET tests in a controlled pH environment. This is in response to the concern that an increase in pH during WET testing creates an artifactual toxicity when ammonia is present. Techniques and guidance for controlling test pH using a CO<sub>2</sub>-controlled atmosphere are provided in Mount and Mount's *A simple method of pH control for static and static renewal aquatic toxicity tests* (Environmental Toxicology Chemistry 11:609-614). In addition, the tests should be performed at 20° C instead of 25° C to minimize the conversion of NH<sub>4</sub> to toxic NH<sub>3</sub> during testing.

## S9. CHRONIC TOXICITY

### A. Testing Requirements

Testing shall be conducted twice during calendar year 2007, during the months of January and July, prior to submission of the application for permit renewal. All of the chronic toxicity tests listed below shall be conducted on each sample. The results of this chronic toxicity testing shall be submitted to the Department as a part of the permit renewal application process.

The Permittee shall conduct chronic toxicity testing on a series of at least five (5) concentrations of effluent and a control in order to be able to determine appropriate point estimates and an NOEC. This series of dilutions shall include the acute critical effluent concentration (ACEC). The ACEC equals 4.17% effluent. The Permittee shall compare the ACEC to the control using hypothesis testing at the 0.05 level of significance as described in Appendix H, EPA/600/4-89/001.

Chronic toxicity tests shall be conducted with the following species and the most recent version of the following protocols:

Saltwater Chronic Toxicity Test Species		Method
Topsmelt or Silverside minnow	<i>Atherinops affinis</i> or <i>Menidia beryllina</i>	EPA/600/R-95/136 or EPA/600/4-91/003
Mysid shrimp	<i>Holmesimysis costata</i> or <i>Mysidopsis bahia</i>	EPA/600/R-95/136 or EPA/600/4-91/003

The Permittee shall use the West Coast fish (topsmelt, *Atherinops affinis*) and mysid (*Holmesimysis costata*) for toxicity testing unless the lab cannot obtain a sufficient quantity of a West Coast species in good condition in which case the East Coast fish (silverside minnow, *Menidia beryllina*) or mysid (*Mysidopsis bahia*) may be substituted.

### B. Sampling and Reporting Requirements

1. All reports for effluent characterization or compliance monitoring shall be submitted in accordance with the most recent version of Department of Ecology Publication # WQ-R-95-80, *Laboratory Guidance and Whole Effluent Toxicity Test Review Criteria*, in regards to format and content. Reports shall contain bench sheets and reference toxicant results for test methods. If the lab provides the toxicity test data on floppy disk for electronic entry into the Department's database, then the Permittee shall send the disk to the Department along with the test report, bench sheets, and reference toxicant results.

2. Testing shall be conducted on 24-hour composite effluent samples. Samples taken for toxicity testing shall be cooled to 4 degrees Celsius while being collected and shall be sent to the lab immediately upon completion. The lab shall begin the toxicity testing as soon as possible but no later than 36 hours after sampling was ended.
3. All samples and test solutions for toxicity testing shall have water quality measurements as specified in Department of Ecology Publication # WQ-R-95-80, *Laboratory Guidance and Whole Effluent Toxicity Test Review Criteria*, or most recent version thereof.
4. All toxicity tests shall meet quality assurance criteria and test conditions in the most recent versions of the EPA manual listed in Subsection A and the Department of Ecology Publication # WQ-R-95-80, *Laboratory Guidance and Whole Effluent Toxicity Test Review Criteria*. If test results are determined to be invalid or anomalous by the Department, testing shall be repeated with freshly collected effluent.
5. Control water and dilution water shall be laboratory water meeting the requirements of the EPA manual listed in Subsection A or pristine natural water of sufficient quality for good control performance.
6. The whole effluent toxicity tests shall be run on an unmodified sample of final effluent. Precautions should be taken to ensure that the sample contains no residual chlorine when chlorine is being used for filament control.
7. The Permittee shall conduct a full dilution series test in order to determine dose response; the series must have a minimum of five (5) effluent concentrations and a control. The series of concentrations must include the ACEC and the CCEC. The ACEC equals 4.17% effluent and the CCEC equals 0.38% effluent. The ACEC and CCEC may either substitute for the effluent concentration that is closest to it in the dilution series or be an extra effluent concentration.
8. All whole effluent toxicity tests that involve hypothesis testing and do not comply with the chronic statistical power standard of 39% as defined in WAC 173-205-020 must be repeated on a fresh sample with an increased number of replicates to increase the power.
9. A written report shall be submitted to the Department within sixty (60) days after the sample date, and a final effluent summary report shall be submitted to the Department with the next permit application. This summary report shall include a tabulated summary of the individual test results and any information on sources of toxicity, toxicity source control, correlation with effluent data, and toxicity treatability which is developed during the period of testing.

## **S10. SEDIMENT MONITORING**

### **A. Sediment Sampling and Analysis Plan**

The Permittee shall submit to the Department for review and approval a Sediment Sampling and Analysis Plan for sediment monitoring in the vicinity of the Permittee's discharge location. Sediment monitoring shall be conducted to recharacterize the nature and extent of chemical contamination and biological toxicity in the vicinity of the discharge.

The Sediment Sampling and Analysis Plan shall be submitted for review and approval to the Department no later than December 31, 2003. The Permittee shall submit a Sediment Sampling and Analysis Plan following the guidance provided in the *Sediment Source Control Standards User Manual, Appendix B: Sediment Sampling and Analysis Plan Appendix* (Ecology, 1995).

### **B. Sediment Data Report**

Following Department approval of the Sediment Sampling and Analysis Plan, sediments will be collected and analyzed by December 31, 2005. The Permittee shall submit to the Department a Sediment Data Report containing the results of the sediment sampling and analysis by June 30, 2006, and no later than six (6) months after completion of sampling.

The Sediment Data Report shall conform with the approved Sampling and Analysis Plan and the guidance provided in the *Sediment Source Control Standards User Manual, Appendix B: Sediment Sampling and Analysis Plan Appendix* (Ecology, 1995). The Sediment Data Report shall also include electronic copies of the sediment chemical and biological data reported in the Department's Sediment Quality Information System (SEDQUAL) template format.

## **S11. OUTFALL EVALUATION**

The Permittee shall inspect, at least once during the permit term, the condition of the outfall line and outfall pipe exit to document its integrity and continued function. The purpose of this test is to confirm that the pipe is intact and is properly diffusing the treated wastewater effluent into Dumas Bay. This inspection may be conducted using Remote Operated Vehicles (ROV's). If conditions allow for a photographic verification, it shall be included in the report. The report shall address the accumulation of sediment in the vicinity of the outfall, and shall report any blockages, shifting, or damage to the outfall as it was approved for construction. The inspection report shall be submitted to the Department by the due date of the application for renewal of this permit.



## GENERAL CONDITIONS

### G1. SIGNATORY REQUIREMENTS

All applications, reports, or information submitted to the Department shall be signed and certified.

- A. All permit applications shall be signed by either a principal executive officer or a ranking elected official.
- B. All reports required by this permit and other information requested by the Department shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
  - 1. The authorization is made in writing by a person described above and submitted to the Department.
  - 2. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)
- C. Changes to authorization. If an authorization under paragraph B.2 above is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph B.2 above must be submitted to the Department prior to or together with any reports, information, or applications to be signed by an authorized representative.
- D. Certification. Any person signing a document under this section shall make the following certification:

*"I certify under penalty of law, that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."*

### G2. RIGHT OF INSPECTION AND ENTRY

The Permittee shall allow an authorized representative of the Department, upon the presentation of credentials and such other documents as may be required by law:

- A. To enter upon the premises where a discharge is located or where any records must be kept under the terms and conditions of this permit.
- B. To have access to and copy - at reasonable times and at reasonable cost - any records required to be kept under the terms and conditions of this permit.
- C. To inspect - at reasonable times - any facilities, equipment (including monitoring and control equipment), practices, methods, or operations regulated or required under this permit.
- D. To sample or monitor - at reasonable times - any substances or parameters at any location for purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act.

### **G3. PERMIT ACTIONS**

This permit may be modified, revoked and reissued, or terminated either at the request of any interested person (including the Permittee) or upon the Department's initiative. However, the permit may only be modified, revoked and reissued, or terminated for the reasons specified in 40 CFR 122.62, 122.64 or WAC 173-220-150 according to the procedures of 40 CFR 124.5.

- A. The following are causes for terminating this permit during its term, or for denying a permit renewal application:
  - 1. Violation of any permit term or condition.
  - 2. Obtaining a permit by misrepresentation or failure to disclose all relevant facts.
  - 3. A material change in quantity or type of waste disposal.
  - 4. A determination that the permitted activity endangers human health or the environment, or contributes to water quality standards violations and can only be regulated to acceptable levels by permit modification or termination [40 CFR Part 122.64(3)].
  - 5. A change in any condition that requires either a temporary or permanent reduction, or elimination of any discharge or sludge use or disposal practice controlled by the permit [40 CFR Part 122.64(4)].
  - 6. Nonpayment of fees assessed pursuant to RCW 90.48.465.
  - 7. Failure or refusal of the Permittee to allow entry as required in RCW 90.48.090.
- B. The following are causes for modification but not revocation and reissuance except when the Permittee requests or agrees:
  - 1. A material change in the condition of the waters of the state.

2. New information not available at the time of permit issuance that would have justified the application of different permit conditions.
  3. Material and substantial alterations or additions to the permitted facility or activities which occurred after this permit issuance.
  4. Promulgation of new or amended standards or regulations having a direct bearing upon permit conditions, or requiring permit revision.
  5. The Permittee has requested a modification based on other rationale meeting the criteria of 40 CFR Part 122.62.
  6. The Department has determined that good cause exists for modification of a compliance schedule, and the modification will not violate statutory deadlines.
  7. Incorporation of an approved local pretreatment program into a municipality's permit.
- C. The following are causes for modification or alternatively revocation and reissuance:
1. Cause exists for termination for reasons listed in A1 through A7 of this section, and the Department determines that modification or revocation and reissuance is appropriate.
  2. The Department has received notification of a proposed transfer of the permit. A permit may also be modified to reflect a transfer after the effective date of an automatic transfer (General Condition G8) but will not be revoked and reissued after the effective date of the transfer except upon the request of the new Permittee.

#### **G4. REPORTING PLANNED CHANGES**

The Permittee shall, as soon as possible, but no later than sixty (60) days prior to the proposed changes, give notice to the Department of planned physical alterations or additions to the permitted facility, production increases, or process modification which will result in: 1) the permitted facility being determined to be a new source pursuant to 40 CFR 122.29(b); 2) a significant change in the nature or an increase in quantity of pollutants discharged; or 3) a significant change in the Permittee's sludge use or disposal practices. Following such notice, and the submittal of a new application or supplement to the existing application, along with required engineering plans and reports, this permit may be modified, or revoked and reissued pursuant to 40 CFR 122.62(a) to specify and limit any pollutants not previously limited. Until such modification is effective, any new or increased discharge in excess of permit limits or not specifically authorized by this permit constitutes a violation of the terms and conditions of this permit.

**G5. PLAN REVIEW REQUIRED**

Prior to constructing or modifying any wastewater control facilities (see glossary for definition of *wastewater control facility*), an engineering report and detailed plans and specifications shall be submitted to the Department for approval in accordance with chapter 173-240 WAC. Engineering reports, plans, and specifications shall be submitted at least one hundred and eighty (180) days prior to the planned start of construction unless a shorter time is approved by Ecology. Facilities shall be constructed and operated in accordance with the approved plans.

Engineering reports and plans & specifications for sewer line extensions and pump stations will not require submission for approval if the department approves a general sewer plan and a standard design criteria document. The department has approved Lakehaven's general sewer plan and is in process of reviewing Lakehaven's Sanitary Sewer Specifications and Design Criteria.

**G6. COMPLIANCE WITH OTHER LAWS AND STATUTES**

Nothing in this permit shall be construed as excusing the Permittee from compliance with any applicable federal, state, or local statutes, ordinances, or regulations.

**G7. DUTY TO REAPPLY**

The Permittee shall apply for permit renewal at least one hundred and eighty (180) days prior to the specified expiration date of this permit.

**G8. TRANSFER OF THIS PERMIT**

In the event of any change in control or ownership of facilities from which the authorized discharge emanate, the Permittee shall notify the succeeding owner or controller of the existence of this permit by letter, a copy of which shall be forwarded to the Department.

A. Transfers by Modification

Except as provided in paragraph (B) below, this permit may be transferred by the Permittee to a new owner or operator only if this permit has been modified or revoked and reissued under 40 CFR 122.62(b)(2), or a minor modification made under 40 CFR 122.63(d), to identify the new Permittee and incorporate such other requirements as may be necessary under the Clean Water Act.

B. Automatic Transfers

This permit may be automatically transferred to a new Permittee if:

1. The Permittee notifies the Department at least thirty (30) days in advance of the proposed transfer date.

2. The notice includes a written agreement between the existing and new Permittees containing a specific date transfer of permit responsibility, coverage, and liability between them.
3. The Department does not notify the existing Permittee and the proposed new Permittee of its intent to modify or revoke and reissue this permit. A modification under this subparagraph may also be minor modification under 40 CFR 122.63. If this notice is not received, the transfer is effective on the date specified in the written agreement.

**G9. REDUCED PRODUCTION FOR COMPLIANCE**

The Permittee, in order to maintain compliance with its permit, shall control production and/or all discharges upon reduction, loss, failure, or bypass of the treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

**G10. REMOVED SUBSTANCES**

Collected screenings, grit, solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall not be re-suspended or re-introduced to the final effluent stream for discharge to state waters.

**G11. DUTY TO PROVIDE INFORMATION**

The Permittee shall submit to the Department, within a reasonable time, all information which the Department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The Permittee shall also submit to the Department upon request, copies of records required to be kept by this permit.

**G12. OTHER REQUIREMENTS OF 40 CFR**

All other requirements of 40 CFR 122.41 and 122.42 are incorporated in this permit by reference.

**G13. ADDITIONAL MONITORING**

The Department may establish specific monitoring requirements in addition to those contained in this permit by administrative order or permit modification.

**G14. PAYMENT OF FEES**

The Permittee shall submit payment of fees associated with this permit as assessed by the Department.

#### **G15. PENALTIES FOR VIOLATING PERMIT CONDITIONS**

Any person who is found guilty of willfully violating the terms and conditions of this permit shall be deemed guilty of a crime, and upon conviction thereof shall be punished by a fine of up to ten thousand dollars (\$10,000) and costs of prosecution, or by imprisonment in the discretion of the court. Each day upon which a willful violation occurs may be deemed a separate and additional violation.

Any person who violates the terms and conditions of a waste discharge permit shall incur, in addition to any other penalty as provided by law, a civil penalty in the amount of up to ten thousand dollars (\$10,000) for every such violation. Each and every such violation shall be a separate and distinct offense, and in case of a continuing violation, every day's continuance shall be deemed to be a separate and distinct violation.

#### **G16. UPSET**

Definition – “Upset” means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the Permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of the following paragraph are met.

A Permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that: 1) an upset occurred and that the Permittee can identify the cause(s) of the upset; 2) the permitted facility was being properly operated at the time of the upset; 3) the Permittee submitted notice of the upset as required in Condition S3.E; and 4) the Permittee complied with any remedial measures required under S5 of this permit.

In any enforcement proceeding, the Permittee seeking to establish the occurrence of an upset has the burden of proof.

#### **G17. PROPERTY RIGHTS**

This permit does not convey any property rights of any sort, or any exclusive privilege.

#### **G18. DUTY TO COMPLY**

The Permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

**G19. TOXIC POLLUTANTS**

The Permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if this permit has not yet been modified to incorporate the requirement.

**G20. PENALTIES FOR TAMPERING**

The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than two (2) years per violation, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this condition, punishment shall be a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than four (4) years, or by both.

**G21. REPORTING ANTICIPATED NONCOMPLIANCE**

The Permittee shall give advance notice to the Department by submission of a new application or supplement thereto at least one hundred and eighty (180) days prior to commencement of such discharges, of any facility expansions, production increases, or other planned changes, such as process modifications, in the permitted facility or activity which may result in noncompliance with permit limits or conditions. Any maintenance of facilities, which might necessitate unavoidable interruption of operation and degradation of effluent quality, shall be scheduled during noncritical water quality periods and carried out in a manner approved by the Department.

**G22. REPORTING OTHER INFORMATION**

Where the Permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application, or in any report to the Department, it shall promptly submit such facts or information.

**G23. REPORTING REQUIREMENTS APPLICABLE TO EXISTING MANUFACTURING, COMMERCIAL, MINING, AND SILVICULTURAL DISCHARGERS**

The Permittee belonging to the categories of existing manufacturing, commercial, mining, or silviculture must notify the Department as soon as they know or have reason to believe:

- A. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in this permit, if that discharge will exceed the highest of the following “notification levels”:
  - 1. One hundred micrograms per liter (100 µg/l).

2. Two hundred micrograms per liter (200 µg/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony.
  3. Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7).
  4. The level established by the Director in accordance with 40 CFR 122.44(f).
- B. That any activity has occurred or will occur which would result in any discharge, on a nonroutine or infrequent basis, of a toxic pollutant which is not limited in this permit, if that discharge will exceed the highest of the following “notification levels”:
1. Five hundred micrograms per liter (500 µg/L).
  2. One milligram per liter (1 mg/L).
  3. Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7).
  4. The level established by the Director in accordance with 40 CFR 122.44(f).

#### **G24. COMPLIANCE SCHEDULES**

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than fourteen (14) days following each schedule date.